

Labor finds, after notice and an opportunity for a hearing that, a facility has violated the condition attested to under subparagraph (A)(iii) (relating to payment of registered nurses at the prevailing wage rate), the Secretary shall order the facility to provide for payment of such amounts of back pay as may be required to comply with such condition.

“(F)(i) The Secretary of Labor shall impose on a facility filing an attestation under subparagraph (A) a filing fee, in an amount prescribed by the Secretary based on the costs of carrying out the Secretary’s duties under this subsection, but not exceeding \$250.

“(ii) Fees collected under this subparagraph shall be deposited in a fund established for this purpose in the Treasury of the United States.

“(iii) The collected fees in the fund shall be available to the Secretary of Labor, to the extent and in such amounts as may be provided in appropriations Acts, to cover the costs described in clause (i), in addition to any other funds that are available to the Secretary to cover such costs.

“(3) The period of admission of an alien under section 101(a)(15)(H)(i)(c) shall be 3 years.

“(4) The total number of nonimmigrant visas issued pursuant to petitions granted under section 101(a)(15)(H)(i)(c) in each fiscal year shall not exceed 500. The number of petitions granted under section 101(a)(15)(H)(i)(c) for each State in each fiscal year shall not exceed the following:

“(A) For States with populations of less than 9,000,000 based upon the 1990 decennial census of population, 25 petitions.

“(B) For States with populations of 9,000,000 or more, based upon the 1990 decennial census of population, 50 petitions.

“(C) If the total number of visas available under this paragraph for a calendar quarter exceeds the number of qualified nonimmigrants who may be issued such visas, the visas made available under this paragraph shall be issued without regard to the numerical limitations under subparagraphs (A) and (B) of this paragraph during the remainder of the calendar quarter.

“(5) A facility that has filed a petition under section 101(a)(15)(H)(i)(c) to employ a nonimmigrant to perform nursing services for the facility—

“(A) shall provide the nonimmigrant a wage rate and working conditions commensurate with those of nurses similarly employed by the facility;

“(B) shall require the nonimmigrant to work hours commensurate with those of nurses similarly employed by the facility; and

“(C) shall not interfere with the right of the nonimmigrant to join or organize a union.

“(6) For purposes of this subsection and section 101(a)(15)(H)(i)(c), the term ‘facility’ means a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B))) that meets the following requirements:

“(A) As of March 31, 1997, the hospital was located in a health professional shortage area (as defined in section 332 of the Public Health Service Act (42 U.S.C. 254e)).

“(B) Based on its settled cost report filed under title XVIII of the Social Security Act for its costs reporting period beginning during fiscal year 1994—

“(i) the hospital has not less than 190 licensed acute care beds;

“(ii) the number of the hospital’s inpatient days for such period which were made up of patients who (for such days) were entitled to benefits under part A of such title is not less than 35 percent of the total number of such

hospital’s acute care inpatient days for such period; and

“(iii) the number of the hospital’s inpatient days for such period which were made up of patients who (for such days) were eligible for medical assistance under a State plan approved under title XIX of the Social Security Act, is not less than 28 percent of the total number of such hospital’s acute care inpatient days for such period.”.

(c) REPEALER.—Clause (i) of section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking subclause (a).

(d) IMPLEMENTATION.—Not later than 90 days after the date of enactment of this Act, the Secretary of Labor (in consultation, to the extent required, with the Secretary of Health and Human Services) and the Attorney General shall promulgate final or interim final regulations to carry out section 212(m) of the Immigration and Nationality Act (as amended by subsection (b)).

(e) LIMITING APPLICATION OF NONIMMIGRANT CHANGES TO 4-YEAR PERIOD.—The amendments made by this section shall apply to classification petitions filed for nonimmigrant status only during the 4-year period beginning on the date that interim or final regulation are first promulgated under subsection (d).

SEC. 1203. RECOMMENDATIONS FOR ALTERNATIVE REMEDY FOR NURSING SHORTAGE. Not later than the last day of the 4-year period described in section 1202(e), the Secretary of Health and Human Services and the Secretary of Labor shall jointly submit to Congress recommendations (including legislative specifications) with respect to the following:

(1) A program to eliminate the dependence of facilities described in section 212(m)(6) of the Immigration and Nationality Act (as amended by section 1202(b)) on nonimmigrant registered nurses by providing for a permanent solution to the shortage of registered nurses who are United States citizens or aliens lawfully admitted for permanent residence.

(2) A method of enforcing the requirements imposed on facilities under sections 101(a)(15)(H)(i)(c) and 212(m) of the Immigration and Nationality Act (as amended by section 1202) that would be more effective than the process described in section 212(m)(2)(E) of such Act (as so amended).

This Act may be cited as the “Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999”.

MODIFICATION TO AMENDMENT NO. 3258 OF S. 2260

Mr. CAMPBELL. Mr. President, during the consideration of S. 2260 and amendment No. 3258, language was inadvertently omitted.

I ask unanimous consent that in the engrossment of the bill the language that was omitted that is now at the desk be added at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modification is as follows:

At the end of Section 13, before the period, insert “made available to their respective departments”.

EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO DEMOCRACY AND HUMAN RIGHTS IN THE LAO PEOPLE’S DEMOCRATIC REPUBLIC

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Senate

proceed to the immediate consideration of Calendar No. 429, S. Res. 240.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 240) expressing the sense of the Senate with respect to democracy and human rights in the Lao People’s Democratic Republic.

There being no objection, the Senate proceeded to consider the resolution which had been reported from the Committee on Foreign Relations with amendments.

(The parts of the resolution intended to be stricken are shown in boldface brackets and the parts of the resolution intended to be inserted are shown in italic.)

S. RES. 240

Whereas in 1975, the Pathet Lao party supplanted the existing Lao government and the Lao Royal Family, and established a “people’s democratic republic”, in violation of the 1962 Declaration on the Neutrality of Laos and its Protocol, as well as the 1973 Vientiane Agreement on Laos;

Whereas since the 1975 overthrow of the existing Lao government, Laos has been under the sole control of the Lao People’s Democratic Party;

Whereas the present Lao Constitution provides for human rights protection for the Lao people, and Laos is a signatory to international agreements on civil and political rights;

Whereas Laos has become a member of the Association of Southeast Asian Nations, which calls for the creation of open societies in each of its member states by the year 2020;

Whereas despite that, the State Department’s “Country Reports on Human Rights Practices for 1997” notes that the government has only slowly eased restrictions on basic freedoms and begun codification of implementing legislation for rights stipulated in the Lao Constitution, and continues to significantly restrict the freedoms of speech, assembly, and religion; and

Whereas on January 30, 1998, the Lao government arrested and detained forty-four individuals at a Bible study meeting in Vientiane and on March 25 sentenced thirteen Christians from the group to prison terms of three to five years for “creating divisions among the people, undermining the government, and accepting foreign funds to promote religion”; Now, therefore, be it

Resolved, That it is the sense of the Senate that the present government of Laos should—

(1) respect international norms of human rights and democratic freedoms for the Lao people, and fully honor its commitments to those norms and freedoms as embodied in its constitution and international agreements, and in the 1962 Declaration on the Neutrality of Laos and its Protocol and the 1973 Vientiane Agreement on Laos;

(2) issue a public statement specifically reaffirming its commitment to protecting religious freedom *and other basic human rights*; [and]

(3) fully institute a process of democracy, human rights, and openly-contested free and fair elections in Laos, and ensure specifically that the National Assembly elections—currently scheduled for 2002—are openly contested [.] ; and

(4) allow access for international human rights monitors, including the International Committee of the Red Cross to Lao prisons, and to all regions of the country to investigate allegations of human rights abuses, including those against the Hmong people, when requested.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the committee amendments be agreed to, as amended, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The resolution, (S. Res. 240) as amended, was agreed to.

The preamble was agreed to.

EXPRESSING THE SENSE OF CONGRESS CONCERNING THE HUMAN RIGHTS AND HUMANITARIAN SITUATION FACING THE WOMEN AND GIRLS OF AFGHANISTAN

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 428, Senate Concurrent Resolution 97.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

A resolution (S. Con. Res. 97) expressing the sense of Congress concerning human rights and humanitarian situation facing women and girls of Afghanistan.

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on Foreign Relations, with amendments.

Mr. CAMPBELL. Mr. President, I ask unanimous consent the committee amendment be agreed to, the concurrent resolution as amended and the preamble be agreed to en bloc, and the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The concurrent resolution, as amended, was agreed to.

The preamble was agreed to.

The text of the concurrent resolution (S. Con. Res. 97) will be printed in a future edition of the RECORD.

AMY SOMERS VOLUNTEERS AT FOOD BANKS ACT

Mr. CAMPBELL. I further ask unanimous consent that the Labor Committee be discharged from further consideration of H.R. 3152 and, further, the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3152) to provide that certain volunteers at private nonprofit food banks are not employees for purposes of the Fair Labor Standards Act of 1938.

There being no objection, the Senate proceeded to consider the bill.

Mr. CAMPBELL. Mr. President, I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3152) was passed.

SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1998

Mr. CAMPBELL. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 1260) to amend the Securities Act of 1933 and Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1260) entitled "An Act to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Securities Litigation Uniform Standards Act of 1998".

TITLE I—SECURITIES LITIGATION UNIFORM STANDARDS

SEC. 101. LIMITATION ON REMEDIES.

(a) AMENDMENTS TO THE SECURITIES ACT OF 1933.—

(1) AMENDMENT.—Section 16 of the Securities Act of 1933 (15 U.S.C. 77p) is amended to read as follows:

"SEC. 16. ADDITIONAL REMEDIES; LIMITATION ON REMEDIES.

"(a) REMEDIES ADDITIONAL.—Except as provided in subsection (b), the rights and remedies provided by this title shall be in addition to any and all other rights and remedies that may exist at law or in equity.

"(b) CLASS ACTION LIMITATIONS.—No covered class action based upon the statutory or common law of any State or subdivision thereof may be maintained in any State or Federal court by any private party alleging—

"(1) an untrue statement or omission of a material fact in connection with the purchase or sale of a covered security; or

"(2) that the defendant used or employed any manipulative or deceptive device or contrivance in connection with the purchase or sale of a covered security.

"(c) REMOVAL OF COVERED CLASS ACTIONS.—Any covered class action brought in any State court involving a covered security, as set forth in subsection (b), shall be removable to the Federal district court for the district in which the action is pending, and shall be subject to subsection (b).

"(d) PRESERVATION OF CERTAIN ACTIONS.—(1) ACTIONS UNDER STATE LAW OF STATE OF INCORPORATION.—

"(A) ACTIONS PRESERVED.—Notwithstanding subsection (b) or (c), a covered class action described in subparagraph (B) of this paragraph that is based upon the statutory or common law of the State in which the issuer is incorporated (in the case of a corporation) or organized (in the case of any other entity) may be maintained in a State or Federal court by a private party.

"(B) PERMISSIBLE ACTIONS.—A covered class action is described in this subparagraph if it involves—

"(i) the purchase or sale of securities by the issuer or an affiliate of the issuer exclusively from or to holders of equity securities of the issuer; or

"(ii) any recommendation, position, or other communication with respect to the sale of securities of the issuer that—

"(I) is made by or on behalf of the issuer or an affiliate of the issuer to holders of equity securities of the issuer; and

"(II) concerns decisions of those equity holders with respect to voting their securities, acting in response to a tender or exchange offer, or exercising dissenters' or appraisal rights.

"(2) STATE ACTIONS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, nothing in this section may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans that are named plaintiffs, and that have authorized participation, in such action.

"(B) STATE PENSION PLAN DEFINED.—For purposes of this paragraph, the term 'State pension plan' means a pension plan established and maintained for its employees by the government of the State or political subdivision thereof, or by any agency or instrumentality thereof.

"(3) ACTIONS UNDER CONTRACTUAL AGREEMENTS BETWEEN ISSUERS AND INDENTURE TRUSTEES.—Notwithstanding subsection (b) or (c), a covered class action that seeks to enforce a contractual agreement between an issuer and an indenture trustee may be maintained in a State or Federal court by a party to the agreement or a successor to such party.

"(4) REMAND OF REMOVED ACTIONS.—In an action that has been removed from a State court pursuant to subsection (c), if the Federal court determines that the action may be maintained in State court pursuant to this subsection, the Federal court shall remand such action to such State court.

"(e) PRESERVATION OF STATE JURISDICTION.—The securities commission (or any agency or office performing like functions) of any State shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions.

"(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) AFFILIATE OF THE ISSUER.—The term 'affiliate of the issuer' means a person that directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with, the issuer.

"(2) COVERED CLASS ACTION.—

"(A) IN GENERAL.—The term 'covered class action' means—

"(i) any single lawsuit in which—

"(I) damages are sought on behalf of more than 50 persons or prospective class members, and questions of law or fact common to those persons or members of the prospective class, without reference to issues of individualized reliance on an alleged misstatement or omission, predominate over any questions affecting only individual persons or members; or

"(II) one or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated, and questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members; or

"(ii) any group of lawsuits filed in or pending in the same court and involving common questions of law or fact, in which—

"(I) damages are sought on behalf of more than 50 persons; and

"(II) the lawsuits are joined, consolidated, or otherwise proceed as a single action for any purpose.